

UNITED STATES OF AMERICA
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO: 5:13-CR-108-1BO

FILED

OCT 15 2013

JULIE A. RICHARDS, CLERK
US DISTRICT COURT, EDNC
BY WAM DEP CLK

UNITED STATES OF AMERICA :
:
v. :
:
ROBERT SCOTT FARMER :
Defendant :
_____ :

**MOTION FOR DEPARTURE AND
DEFENDANT'S SENTENCING MEMORANDUM**

The defendant, Robert Scott Farmer, by and through his undersigned counsel, moves for a departure below the advisory guideline range on the basis of the defendant's military service and related mental and emotional health conditions pursuant to USSG §§ 5H1.11 and 5H1.3 respectively.

Mr. Farmer has reviewed the draft Presentence Report with counsel and has no substantive objections to Ms. Robert's calculation of the sentence. Pursuant to his plea agreement Mr. Farmer is prepared to pay \$15,440.00 in restitution at sentencing.

Background

On May 9, 2013 Robert Farmer, pursuant to a criminal information, pled guilty to Theft of Government Money in violation of 18 U.S.C. 641. Sentencing is currently set for October 21, 2013 at 10:00 AM. As the Presentence Report demonstrates, Mr. Farmer served in the United States Army from November 1991 to April 29, 2013. This includes active duty service from May 1993. Robert Farmer completed the Special Forces Qualifications Course in March 2001 and he subsequently completed ten combat rotations in Iraq and Afghanistan. His awards include two Purple Hearts and five Bronze Stars, to include a Bronze Star with a "V" device for valor. As a result of combat related injuries and conditions, Mr. Farmer received a medical

retirement. He has been diagnosed, *inter alia*, with Post Traumatic Stress Disorder and Traumatic Brain Injury. The defendant is currently divorced. His two sons, Jacob, 12, and Joshua, 9, live with Mr. Farmer in Saint Pauls, North Carolina.

Mr. Farmer's military service to his country has been exceptional. This is attested by his military records and awards as well as testimonials from those who served with Robert Farmer. The following descriptions embody MSG (R) Farmer's reputation and character as viewed by his peers.

- LTC Christopher Riga:
 - "an inspiration to all that serve with him"
- Chaplain (MAJ) David Cromeenes
 - "Bobby's contributions to his unit are endless and many of his contributions are not measurable as they are marked by the numerous lives he has saved, and positively impacted."
- Jeffery Hull
 - "He has saved my life and been wounded numerous times in order to accomplish the mission. He even left the hospital after he was wounded in combat to rejoin the team when we were in another contact out of concern for us."
- SFC (R) Christopher Albert Novello
 - "MSG Robert Farmer is a person I would trust and have trusted in situations during combat"
- MSG Troy A. Lettieri
 - "Combat decorated operator that has put his personal safety at risk for his teammates..."
 - "MSG Farmer was handpicked to serve on a highly classified and compartmented program of national interest in support of SECDEF initiatives. During this time he was highly successful to the overall mission."
- David K. Hughes, CPT (Ret.), SF
 - "I have never met a more gifted soldier, equipped with the ability to think through any situation and develop a viable solution with little to no guidance"
 - "Bobby is honor driven and always seeks to do what is right, he is a superior Green Beret and knows his job and performs it better than anyone"

I have ever worked with. But what impresses me most about Bobby is the fact he always puts everyone else first. Bobby is the epitome of a selfless servant. I know this first hand because of the month plus he spent at Walter Reed and Tampa VA helping me and my family while I was in rehabilitation.”

- MSG Kucera from SSG Mr. Farmer’s evaluation report in 2004:
 - “awarded the Purple Heart for wounds received during firefight where he refused to be evacuated and continued fighting with his team”

The narrative to his Bronze Star with Valor Award further attests to Mr. Farmer’s exceptional service to his nation:

SSG Farmer then distinguished himself after recognizing an AMF soldier had been shot and injured. With complete disregard for his own safety, SSG Farmer exited his armored vehicle from the same side that was receiving effective enemy small arms fire. Leaving the relative safety of the armored vehicle, and exposing himself to enemy fire in an attempt to render medical assistance. SSG Farmer moved approximately twenty-five meters while under fire, until he reached the injured soldier. While evaluating the wounded soldier, SSG Farmer himself was shot in the leg behind his left knee. Recognizing the need to get to safety to continue medical aid, he managed to get both himself and the AMF soldier, who had been shot in his right thigh, back to the protective side of the up armored vehicle and out of the line of fire. SSG Farmer then began to render first aid to himself and the wounded soldier by placing dressings on the wounds and stopping the bleeding until a medic arrived. After administering first aid, SSG Farmer immediately began to return fire upon the enemy positions. SSG Farmer continued to provide medical assistance and reassurance to the wounded AMF soldier and place fire on the enemy positions until the enemy was forced from the field of battle. ... After receiving medical attention for his wounds, SSG Fanner immediately rejoined his detachment in the field to complete the on going operation.

Mr. Farmer carries in his body the affects of ten combat deployments. He bears in his body not only shrapnel, physical ailments, and wounds from his combat service, but also the psychological scars that come from steady exposure to the enemy in combat. As Mr. Robert’s points out in his Presentence Report, Robert Farmer suffered several traumatic brain injuries and in May 2011 he was treated at Laurel Ridge Treatment Center in San Antonio, Texas for Post

Traumatic Stress Disorder (PTSD). Following this inpatient treatment Mr. Farmer continued to seek assistance at the Raintree Clinic in Fayetteville, North Carolina. He was also evaluated by the National Intrepid Center of Excellence (NICE) in Bethesda in November 2012 and diagnosed, *inter alia* with multiple traumatic brain injuries, and Chronic PTSD. Considering Mr. Farmer's prolonged exposure to combat, this is not surprising. In his book *On Combat*, LTC (R) Dave Grossman observes, "The stress of combat debilitates far more warriors than are killed in direct hostile action. It is in this toxic, corrosive, destructive domain of the Universal Human Phobia that we ask our soldiers and police officers to live, and to die. This is the realm of combat."¹ Robert Farmer routinely lived in this realm. In the most demanding of circumstances he demonstrated the best characteristics of an American Warrior. Even when he expected to die, he fulfilled his duty to his fellow soldiers and his country. His dedication and vigilance in the most difficult of environments sets him apart from his peers. Nevertheless, Robert Farmer paid a significant price, physically and psychologically, for his service to his country. This circumstance, taken together with his exemplary military service, places Mr. Farmer in a unique and distinguished group of veterans.

Like many Special Forces Soldiers, Robert Farmer has been at the point of the spear in his country's war on terror. Many Soldiers, Sailors, Marines, and Airmen have served in this conflict. Yet it can not be gainsaid that Master Sergeant Robert Farmer's service and contributions have been extraordinary. Robert Farmer not only risked his life and was wounded in service of his country, but he saved the lives of American and coalition soldiers. His military service record is remarkable and distinguishes him from other veterans. Moreover the psychological and physical affects of this service have been substantial.

¹ Dave Grossman & Loren Christensen, *On Combat: The Psychology and Physiology of Deadly Conflict in War and Peace*, Warrior Science Publications (2004) 4.

Discussion

The Guideline commission has recognized that “military service may be relevant in determining whether departure is warranted if the military service, individually or in combination with other offender characteristics, is present to unusual degree and distinguishes the case from the typical cases covered by the guidelines.” See USSG § 5H1.11. As the Supreme Court has recently acknowledged, “Our Nation has a long tradition of according leniency to veterans in recognition of their service, especially for those who fought on the front lines...” *Porter v. McCollum*, 558 U.S. 30, 43 (2009).

Robert Farmer’s military service is far from typical. Even in the unique culture of Special Operations and Special Forces, Robert Farmer’s service stands out. He has earned the unreserved respect and admiration of his peers and fellow Special Forces Soldiers. He is a warrior who, despite his wounds, refused to be evacuated so he could continue fighting with his team. This is a warrior who saved lives under fire while wounded. His professional evaluations consistently assess him as “Among the Best.” Robert Farmer’s military service has not been typical. His combat service, while in the best tradition of the Special Forces, has not been typical. Moreover, his psychological and physical injuries have been considerable.

Mr. Farmer is profoundly remorseful for his criminal misconduct. He has taken concrete steps to make amends for his behavior. His record of sacrifice, dedication, and selfless service demonstrates that his remorse is genuine and completely sincere. An observation of Chaplain Cromeenes reveals a great deal about Robert Farmer and the kind of man he is. Chaplain Cromeenes writes,


The most meaningful experience I have had with Bobby is not related to war, deployment or our unit, but of his actions of friendship. When I was invited to be a guest preacher at a prominent local church in Fayetteville, I was very nervous and excited about the opportunity. I talked with several of my friends in

our battalion and invited them to attend the service and support their chaplain and have some laughs. I honestly did not expect anyone to show up, but I invited them anyway. On the evening of the event, as I walked into the church early to get ready to speak, Bobby was already sitting in a pew, and even dressed up in a suit to attend the service. The moment I saw him I felt safe, and fearless to speak to a congregation I was barley familiar with. Bobby sat one pew behind me in the front and provided godly and friendly "over watch" for me, his chaplain. I have trusted him unconditionally ever since.

Notwithstanding his conviction, the defense contends that Robert Farmer can be trusted to be a law abiding citizen and that he will make positive contributions to his family, his community, and his country in the future. Consequently, the defense contends that these atypical mitigating factors merit a downward departure of at least twenty-five per cent (25%) effectively making Mr. Farmer eligible for probation. Given his service to his country, his acceptance of responsibility, and his efforts to make amends, the defense contends that this is fair and reasonable result.

WHEREFORE, for all the above stated reasons and for such other reasons as may be offered at the sentencing hearing, the Defendant, Robert Farmer, respectfully requests that this Court make such requested findings in combination with all the other sentencing factors and imposed a sentence of probation.

Respectfully submitted this 15 day of October 2013.



TODD C. CONORMON

Attorney for the Defendant

120 Westlake Road, Unit #6

Fayetteville, NC 28314

Telephone: (910) 826-8855

Facsimile: (910) 826-2234

Email: todd@militaryjusticecenter.com

North Carolina State Bar #13823

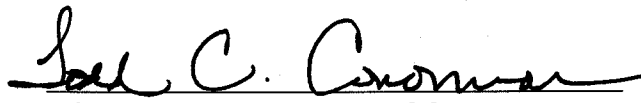
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served upon:

United States Attorney's Office
Suite 800, Federal Building
310 New Bern Avenue
Raleigh, NC 27601-1461

Via hand delivery on the 15th day of October 2013.

This the 15th day of October 2013.

A handwritten signature in black ink, appearing to read "Todd C. Conormon", written over a horizontal line.

TODD C. CONORMON, ESQ.
Attorney for the Defendant
120 Westlake Road, Unit #6
Fayetteville, NC 28314
Telephone (910) 826-8855
Facsimile (910) 826-2234
Email: todd@militaryjusticecenter.com
North Carolina State Bar #13823